

REMARKS**I. Claim Status**

Claims 1-4, 8, and 11-15 remain pending in the application and claims 1, 2, 8, 11, 12, 14, and 15 are amended herewith. Claims 1-4, 8, and 11-15 have been rejected by the Examiner under 35 U.S.C. 103 (a) as being obvious. Claims 5-7, 9, 10, and 16-27 were previously cancelled. Applicants respectfully disagree with the Examiner and submit the following arguments as to why the claims are not obvious.

II. Telephonic Interview

Applicants thank the Examiner for his time and consideration during the telephonic interview with Applicants' representative, Damon Ashcraft, on November 27, 2007 and the follow up discussion on November 28, 2007. During that interview, Mr. Ashcraft explained how certain disclosures (as described below) in the references cited taught against the Examiner's combination of references and would not render the claims as pending obvious. The Examiner agreed with Mr. Ashcraft that certain statements within the references cited did explicitly teach against the Examiner's proposed combination and invited Mr. Ashcraft to put those arguments in writing for the Examiner's consideration. This response sets forth those arguments for the Examiner's consideration.

Moreover, during the phone call with Mr. Ashcraft on November 28, 2007, the Examiner agreed that further amending the claims with the limitation of a disposable liner would further

distinguish Applicants invention from the prior art and stated that he would not maintain the obviousness rejection if Applicants submitted claim amendments that recite a “disposable shopping cart liner” and the arguments set forth above.

III. The § 103 Rejections

Claims 1, 2, 8, 11, 12, 14, and 15

The Examiner rejected claims 1, 2, 8, 11, 12, 14, and 15 under 35 U.S.C. §103 (a) as being obvious when U.S. Patent No. 6,517,155 to Landine (“Landine”) is viewed with U.S. Patent No. 5,649,718 to Groglio (“Groglio”) and U.S. Patent No. 4,805,937 to Boucher et al. (“Boucher”). Specifically, the Examiner argues that Landine teaches the invention as claimed except that it fails to teach a “a further portion of the liner which engages the cart basket front, rear and sides, and includes a handle, being further convertible to a carrier.” The Examiner then cites Groglio citing that it discloses a shopping cart with a detachable liner. The Examiner also cited Boucher claiming that it discloses the use of tabs. The Examiner then argues that it would be obvious to arrive at the invention as claimed in view of these three separate references.

Applicants respectfully disagree with the Examiner that it would have been obvious to one of ordinary skill in the art to arrive at Applicants’ invention as there is no motivation to combine any of these references. Further, Applicants respectfully remind the Examiner that “a prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention.” *MPEP § 2141.03(VI)* citing *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983).

Claims 1 and 8 include the limitations of a “single cart basket liner” and a “child transport area liner.” Landine explicitly teaches against the combination of a “child transport area liner” combined with a “single cart basket liner.” As discussed with the Examiner during the aforementioned interview, the invention disclosed by Landine is aimed at preventing certain contamination associated with a child from coming into contact with the shopper’s food stored in the front portion of the basket. Landine describes this in column 1, lines 64-67 and in column 2, lines 1-2. As such, Landine’s device is limited to a liner that fits only in the child-portion of the cart.

Based on this disclosure in Landine, it would not be obvious to combine the child seat liner of Landine with the cart liner of Groglio as combining these two liners would not prevent the contamination from the child found on the child seat liner to come in contact with and contaminate the liner used for the front portion of the basket¹. If the child seat liner disclosed by Landine contacted the cart liner disclosed by Groglio the entire purpose of Landine’s invention would be defeated. The primary object to Landine’s invention is to prevent cross-contamination, whereas Applicants seek to provide a barrier that protects a shopper’s food and child (or anything else in the child seat area) from being exposed to contaminants on the shopping cart.

Therefore, Landine teaches against the Examiner’s proposed combination and it is not proper to combine Landine with Groglio and render Applicants’ claims 1 and 8 obvious. Applicants respectfully request that the obviousness rejections of claims 1 and 8 be withdrawn.

¹ Although this difference is significant from a patentability viewpoint, Applicants note that contamination of this nature is not likely to be an issue for Applicants as they intend to produce a disposable cart liner that is used only once.

Further, Applicants point out that claims 1 and 8 and their respective dependent claims have been amended to recite that the shopping cart liner is disposable. Although Applicants do not believe that this amendment is necessary to overcome any rejections, this limitation does further distinguish Applicants invention from the references cited. Therefore, Applicants respectfully request that the rejections of dependent claims 2, 11, 12, 14, and 15 also be withdrawn due to these claims dependency on allowable independent claims.

Claims 3 and 4

The Examiner also rejected claims 3 and 4 when Landine, Groglio, and Boucher are viewed with U.S. Patent No. 4,991,978 to Ostrowski (“Ostrowski”). The Examiner argues that Landine, Groglio, and Boucher teach the invention as claimed in claims 3 and 4 except that these references do not disclose the use of drawstrings and drawstring fasteners which the Examiner argues are disclosed by Ostrowski. The Examiner then argues that the invention as claimed in claims 3 and 4 would be obvious based on the combination of these four references. Again, Applicants disagree with the Examiner.

Applicants also note that claims 3 and 4 are dependent upon claim 1 which is not obvious as explained above due to (among other things) Landine’s disclosure which teaches against the invention as claimed in claim 1. Therefore, the Examiner is respectfully requested to withdraw these rejections of dependent claims 3 and 4 due to their dependency on claim 1.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that all claims now pending are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact Damon Ashcraft at 602-382-6389. Applicants authorize and respectfully requests that any fees due be charged to Deposit Account No. 19-2814. **This statement does NOT authorize charge of the issue fee.**

Respectfully submitted,

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By: 
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